



an IAC. (Doc. Nos. 49-1, 49-2). Plaintiffs never responded. (Doc. No. 49, at 2, 3). After resolving the Motions to Dismiss, the Court also Ordered the parties to file a status report by December 20, 2020. (Doc. No. 45). While Defendants filed a status report on December 20, 2019, (Doc. No. 49), Plaintiffs did not respond to Defendants' request to confer about Defendants' status report and did not file a status report of their own, (Doc. No. 39, at 2, 3).

Federal Rule of Civil Procedure 41(b) permits a Court to dismiss a case where "the plaintiff fails to prosecute or to comply with [the] rules or a court order." The Fourth Circuit has "identified four criteria that guide a district court's discretion in dismissing a case under Rule 41(b). *Attkisson v. Holder*, 925 F.3d 606, 625 (4th Cir. 2019). Such an exercise should weigh: '(1) the plaintiff's degree of personal responsibility; (2) the amount of prejudice caused the defendant; (3) the presence of a drawn out history of deliberately proceeding in a dilatory fashion; and (4) the effectiveness of sanctions less drastic than dismissal.' *Id.* (citation omitted).

Here, Plaintiff is proceeding pro se, and, therefore, bears the entire responsibility of prosecuting the case. *See Feagin v. Blockbuster, Inc.*, 3:09-cv-00532-RJC, 2016 WL 3148390, at \*2 (W.D.N.C. June 2, 2016). Further, the events underlying Plaintiffs' allegations occurred almost five years ago, (Doc. No. 1), and Plaintiffs' delay prejudices Defendants' ability to defend against Plaintiffs' claims as "[m]emories fade and witness[es] become unavailable." *See Medlin v. Trull*, No. 3:03CV269, 2006 WL 435941, at \*2 (W.D.N.C. Feb. 21, 2006). Plaintiff also has a drawn-out history of delay, declining to respond to the Court or to Defendants for more than twenty months and otherwise taking no action since October 11, 2017, more than two years ago. The Court does not believe a less drastic sanction than dismissal would be effective, because of the lengthy period of Plaintiffs' non-responsiveness. Thus, under the Fourth Circuit's criteria, dismissal under Rule 41(b) is appropriate.

For the foregoing reasons, **IT IS ORDERED** that Defendants' Motions are **GRANTED** and this case is **DISMISSED** without prejudice. The Clerk of Court is directed to close this civil case.

Signed: January 7, 2020

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

